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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/499,871	02/07/2000	John Ellis	081862.P160	1846

7590 09/06/2006  
Blakely Sokoloff Taylor & Zafman LLP  
12400 Wilshire Boulevard  
7th floor  
Los Angeles, CA 90025

EXAMINER

JUNG, MIN

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/499,871	ELLIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Min Jung	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Damien, US 6,580,690.

Damien discloses providing security for a telecommunications network by duplication of virtual paths between switching nodes. In the case of a malfunctioning on the main path, the input switching node switches its output to the substitute path. See Abstract.

Regarding the present claims, Damien teaches connection between first and second nodes, for example, between switching device C1 and C2. Damien also teaches switching element C1, for example, and as shown in Fig. 6, which has the primary connection and the secondary connection (not specifically shown in the figure) described at col. 3, lines 33-49. Damien describes that there are a main path VPI1 and a substitute path VPI2. Damien teaches the switching operation from the primary path to the substitute path when there is a failure condition at the primary path (loopback in the present claims). See col. 3, lines 43-49, and Abstract.

Further, Damien teaches the concept of physical connection and logical connection – Damien states that “the main path and the substitute path are to take different routes” (col. 3, lines 43-44).

Further, Damien teaches monitoring the failure condition (col. 2, lines 36-40, and col. 3, lines 5-8, monitoring the quality leads to malfunction determination).

Damien further teaches that the invention is implemented in software form in the interconnection module M3 for interconnection to the ATM network. Therefore, the teaching is provided that the functions described are implemented in the interconnection module M3.

Damien teaches that the switching is based on the connectivity status between the first and the second nodes, the connectivity status indicating the failure condition. See abstract, col. 2, lines 36-40 and col. 3, lines 5-8.

Damien teaches ATM switch (col. 2, lines 47-53), and OAM (col. 3, lines 5-32).

It is inherent in Damien's teaching that the main connection and the substitute connection have equal connection capacity since it is not taught otherwise.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Chujo et al. Patent, the Edmaier et al. Patent, the Sakamoto et al. Patent, the Hamami patent, and the Ahmad et al. patent, are cited for further references.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Min Jung whose telephone number is 571-272-3127.

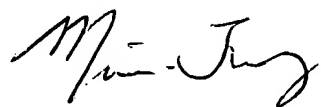
The examiner can normally be reached on Monday through Friday 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2663

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJ  
September 1, 2006

A handwritten signature in black ink, appearing to read "Min Jung", written in a cursive style.

Min Jung  
Primary Examiner